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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NALEVANKO, CHRISTOPHER R	
ART UNIT	**PAPER NUMBER**
2611	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/779,779	GOLDSCHMIDT IKI ET AL.	
	Examiner	Art Unit	
	Christopher R Nalevanko	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 11/04/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,594,825 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

1. Applicant's arguments filed 11/04/2004 have been fully considered but they are not persuasive.

Regarding Claim 1, Applicant argues that "Wugofski does not teach or suggest any way to select between these programs. There is no information in the display of Figure 4 to aid a viewer with a choice and no suggestion that a choice might be automated in any way" (page 7 lines 12-14). Examiner asserts that Wugofski clearly shows that the television program is selected by an automated computer program. Wugofski shows that the "TV-services" module 310 controls the multiplexor to select among input devices for presentation and controls the selected device to tune to a particular channel on that device (col. 4 lines 37-45). This channel tuning happens when a user selects a program (col. 4 lines 37-45). After the selection, the TV-services module finds the appropriate device selectively tunes to the appropriate program, all by using a variety of device, channel, and program specific information (fig. 4). Wugofski further shows that a primary device, or source, is designated for receiving logical channels (col. 5 lines 55-67, primary device). If this primary tuner is unavailable, the system uses a comparison record to select a source with the same signal (col. 5 lines 55-67, comparison

record indicating another source for the same signal and selecting this signal). Finally, there is a variety of information used to make these selections regarding source, channel and stream (col. 6 lines 1-13, entries in columns may represent source name, designation entered by user, or other information).

Applicant further argues that "there is no suggestion in Rosser of identifying multiple versions of an entertainment program. In Wugofski, the three broadcasts of "Mad Bout You" may or may not be the same version. They may be different episodes. There is no descriptive information about each version, save for the channel and broadcast time and no characteristics for this information" (page 8 lines 5-10). Primarily, Rosser is merely used to show collecting extensive user data in a database and using this data to select programming content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an extensive user database to select content). Wugofski is used to show identifying multiple version of an entertainment program. Examiner argues that Wugofski clearly shows the claimed limitation. The claimed limitation reads, "identifying multiple available versions of an entertainment program," which could be read variety of different ways. Different "versions" could mean different episodes of a program, which Wugofski definitely covers (col. 5 lines 1-14, single TV show, of this show, show from multiple sources). Also, the claimed limitation does not say "same entertainment program," which Applicant seems to imply is the intended meaning. Furthermore, the entire specification of Wugofski is describing an EPG system for recognizing same TV programs in guides from different sources, (col. 2 lines 12-35, converging multiple sources). The entire premise is to list

only one program in a master program guide when multiple versions of this program are available, not different episodes. If a different episode was available, it would be given its own designation in the channel map so that a user could watch this additional episode. Wugofski clearly shows that when multiple versions (col. 5 lines 1-15, single TV show from different sources) a merged channel map is created and one of the sources is selected for tuning this program (col. 5 lines 55-67, selecting appropriate tuning).

Finally, Examiner does not agree with Applicants assertion that Wugofski is referring to "different episodes." Wugofski clearly states "a single TV show available from three different sources" (col. 5 lines 5-7) and "a broadcast of this show" (col. 5 lines 9-10). As stated above, reducing different episodes of a program into a single listing would completely teach away from Wugofski's stated purpose. In fact, this language is more restrictive than the claimed language of "multiple versions of an entertainment program." Applicant is reading his claimed limitation as narrowly as possible, when in fact the language could encompass the exact same program but on a different stations (from a different source) or a different episode. In contrast, Applicant is then reading the limitation of Wugofski's "single TV show" and "a broadcast of this show" as broadly as possible. It is a clear contradiction to regard "a program" as one distinct item and "a show" as something completely different, when the stated language only differs in semantics. The Applicant cannot read one set of limitations one way, and another set of language in another. The claimed limitation of "multiple versions of an entertainment program" is clearly met by a single TV show from multiple sources, as shown in Wugofski (col. 5 lines 1-14).

The argument regarding descriptive information about each version is discussed in the first paragraph (col. 6 lines 1-14, variety of information provided for each source, which is a version).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski et al in further view of Rosser.

Regarding Claim 1, Wugofski shows a method comprising receiving entertainment programming input (col. 3 lines 1-26, 50-62, col. 4 lines 35-45), identifying multiple available versions of an entertainment program (col. 5 lines 1-35, fig. 4, col. 5 lines 1-14, single TV show, of this show, show from multiple sources), identifying for each of the multiple versions a set of descriptive information regarding the respective version, the descriptive information having a plurality of characteristics (col. 5 lines 1-67, col. 6 lines 1-13, entries in columns may represent source name, designation entered by user, or other information), and selecting one of the multiple versions for display based on the sets of descriptive information (col. 4 lines 37-45, col. 5 lines 30-35, 55-67, selecting appropriate source for tuning a version of a program). Wugofski shows that module 310 stores information about media input devices, such as certain characteristics about each device (col. 5 lines 15-25). Wugofski shows information

pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50). Although Wugofski shows setting parental control and "favorite places" (col. 4 lines 15-25), he fails to specifically state using a set of user preferences to select one of multiple versions of content. Rosser shows using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an extensive user database to select content). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wugofski with the ability to select alternate content by user preferences in order to provide the user with a more customized stream of programming.

Regarding Claim 2, Wugofski shows that the entertainment programs start within a threshold period of time of one another (col. 5 lines 1-14, 50-67, fig. 4).

Regarding Claim 3, Wugofski shows that at least some of the multiple versions are provided on different transport media (col. 3 lines 1-26, col. 5 lines 1-67), the method further comprising identifying a set of descriptive information regarding the channel transport medium (col. 5 lines 1-15, 35-60), and wherein selecting comprises selecting one of the multiple versions for display based on the sets of channel transport medium descriptive information (col. 5 lines 35-67). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claim 4, Wugofski shows receiving a selection of an entertainment program and identifying alternate versions of the selected entertainment program (col. 4 lines 35-50, col. 5 lines 1-15, 50-67, fig. 4).

Regarding Claim 5, Wugofski shows selecting from multiple versions (col. 5 lines 1-15, 50-67). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45). Rosser shows using algorithms and vectors to give the user the best matched content.

Regarding Claim 6, the limitations of the claim are substantially the same as Claim 5.

Regarding Claim 7, Wugofski shows that the set of descriptive information includes channel transport medium (fig. 4). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claim 8, Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

Regarding Claim 9, Wugofski shows searching through data of an electronic programming guide (col. 4 lines 35-67, col. 5 lines 1-15).

Regarding Claim 10, Wugofski shows a computer for controlling the system, which contains a storage medium having stored a plurality of instructions (col. 3 lines 45-67, col. 4 lines 1-33, fig. 2). The remaining limitations have been discussed with regards to the method claim of Claim 1.

Regarding Claim 11, the limitations of the claim have been discussed with regards to Claim 2.

Regarding Claim 12, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 13, the limitations of the claim have been discussed with regards to Claim 4.

Regarding Claim 14, the limitations of the claim have been discussed with regards to Claim 5.

Regarding Claim 15, the limitations of the claim have been discussed with regards to Claim 7.

Regarding Claim 16, Wugofski shows a program guide controller to receive entertainment programming input (col. 3 lines 1-45, col. 4 lines 35-67), a selection controller coupled to the program guide controller to identify multiple versions of a program, to identify a set of descriptive information regarding the respective version, the descriptive information having a plurality of characteristics, and to select one of the multiple version for display based on the sets of descriptive information (col. 5 lines 1-67). Wugofski shows that module 310 stores information about media input devices, such as certain characteristics about each device (col. 5 lines 15-25). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50). Wugofski also shows a device controller to display the selected version of the program (col. 3 lines 29-44, col. 4 lines 15-33). Although Wugofski shows setting parental control and "favorite places" (col. 4 lines 15-25), he fails to specifically state using a set of user preferences to select one of multiple versions of content. Rosser shows using a set of user preferences to select one of multiple

versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wugofski with the ability to select alternate content by user preferences in order to provide the user with a more customized stream of programming.

Regarding Claim 17, the limitations of the claim have been discussed with regards to Claim 2.

Regarding Claim 18, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 19, the limitations of the claim have been discussed with regards to Claim 5.

Regarding Claim 20, the limitations of the claim have been discussed with regards to Claim 6.

Regarding Claim 21, the limitations of the claim have been discussed with regards to Claim 7.

Regarding Claim 22, Wugofski shows the ability of the user to manually input parental controls, which are preferences (col. 4 lines 22-25).

Regarding Claim 23, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-35).

Regarding Claim 24, Rosser shows identifying a particular user and applying user preferences for the identified user (col. 15 lines 5-30).

Regarding Claim 25, Wugofski shows a user interface that allows the user to manually input parental controls, which are preferences (col. 4 lines 8-33).

Regarding Claim 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-35).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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